

EXHIBIT B

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VIA EMAIL AND U.S. MAIL

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Re: *Lucasys, Inc. v. PowerPlan, Inc.*, No 1:20-cv-2987-AT

Dear Steve:

We are writing you about three significant issues that warrant PowerPlan's immediate attention.

First, PowerPlan has not retracted misleading and damaging letters that it sent to dozens of investor-owned utilities (IOUs) about Lucasys, despite PowerPlan long knowing that they were baseless and have created a stain on Lucasys in the marketplace. Specifically, PowerPlan communicated to IOUs as early as 2019 and 2020 that there was an "intolerable risk that Lucasys will misuse and misappropriate our confidential information and unfairly use it to develop, market, and sell its competing software" and that "**PowerPlan does not consent to Lucasys having access to our software or associated confidential information.**" (See, e.g., Doc 18-2, Letter from PowerPlan to AEP on July 17, 2020) (bold and underline in original.)

Brett Bertz was PowerPlan's Chief Customer Officer at the time and signatory to dozens of letters to IOUs that contained statements along these lines. Mr. Bertz testified that when he sent the letters, he had no evidence that Lucasys misused or misappropriated PowerPlan's confidential information:

Q. As of July 17th, 2020 when you sent this letter, were you aware of any facts or evidence that Lucasys had misused or misappropriated PowerPlan's confidential information?

[OBJECTION]

Stephen Fazio, Esq.
October 6, 2023
Page 2

A. I was not.

* * *

The letters were sent to perpetuate PowerPlan's monopoly, as they created a strong disincentive for any IOU to work with Lucasys. PowerPlan knows better, not only from Mr. Bertz's testimony and testimony from other executives, but also because in October 2022, PowerPlan has indicated that "PowerPlan does not currently object to Lucasys accessing PowerPlan's software or database deployed solely on a customer's network for the sole purpose of providing consulting services," subject to certain terms. (*See* PowerPlan October 17, 2022 Confidential Interrogatory Responses.) PowerPlan, however, only provided this information to Lucasys in *confidential* interrogatory responses rather than providing it to the IOUs to which PowerPlan sent letters.

It is critical that these misleading communications are corrected. Thus, Lucasys demands that PowerPlan send a corrective letter, signed by its CEO Joe Gomes, to all IOUs and individual IOU representatives to which PowerPlan sent communications about Lucasys. The corrective communication should state the following:

"We previously communicated that there was an intolerable risk that Lucasys will misuse and misappropriate our confidential information and that PowerPlan will not consent to Lucasys having access to our software or associated confidential information.

When we made the statement about the intolerable risk that Lucasys will misuse and misappropriate confidential information, we had no evidence that Lucasys misused or misappropriated any confidential information. Thus, we hereby retract that communication and apologize to you and Lucasys for any confusion that we may have caused.

In addition, to be clear, PowerPlan does not object to Lucasys accessing PowerPlan's software or database deployed solely on a customer's network for the sole purpose of providing consulting services to PowerPlan's customer provided (i) that it does so under a written agreement that requires any such access to be used solely for the purpose of providing consulting services to the PowerPlan customer and no other purpose; (ii) includes written confidentiality and use obligations at least as restrictive as those contained in the customer's license agreement with PowerPlan; (iii) prohibits access to PowerPlan source code; and, (iv) that the PowerPlan customer

Stephen Fazio, Esq.

October 6, 2023

Page 3

and/or Lucasys confirms such an agreement in writing to PowerPlan.”

Second, PowerPlan has not retracted a misleading and damaging email that was sent by Mr. Bertz on July 17, 2020, to Robert Kleczynski of Exelon, an industry leader on the EEI Taxation Committee. The email included a statement that PowerPlan had “strong reason to believe [Lucasys] is using access to our intellectual property to build competitive offerings.” That statement was flat out false, and Mr. Bertz knew it at the time he sent the email given his sworn testimony in this matter. As noted above, Mr. Bertz testified that as of July 17, 2020, he had no facts or evidence suggesting that Lucasys had misused or misappropriated PowerPlan’s confidential information.

Thus, Lucasys demands that PowerPlan send a corrective letter, signed by its CEO Joe Gomes, to Mr. Kleczynski, as well as to the leadership of the EEI Taxation Committee. The letter should state the following:

“In July 2020, Brett Bertz emailed you that PowerPlan had strong reason to believe Lucasys was using access to our intellectual property to build competitive offerings.

That statement was wrong. When Mr. Bertz made that statement, he had no evidence that Lucasys misused or misappropriated any confidential information. Thus, we hereby retract that communication and apologize to you and Lucasys for any confusion that we may have caused.”

Third, we demand that PowerPlan remove the “Confidential” designation to PowerPlan’s response to Lucasys’ 20th interrogatory, as it is perpetuating PowerPlan’s monopoly by keeping the substantive information in that response from the marketplace.

* * *

We would appreciate confirmation from you that PowerPlan will take the requested corrective actions very soon.

Sincerely yours,

Jason S. Alloy

Jason S. Alloy

JSA/klm

cc: Joshua A. Mayes, Esq.